

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT D. KLINE,  
Plaintiff

v.

THE ALIERA COMPANIES, INC.,  
and SHELLEY STEELE,  
Defendants.

Civil Action No. \_\_\_\_\_

Removal from the Court of Common  
Pleas of Mifflin County, Pennsylvania,  
No. CV-2020-123

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants The Alieria Companies, Inc. (“Alieria”) and Shelley Steele (“Steele”) (collectively, “Defendants”) remove to this Court the action pending in the Court of Common Pleas of Mifflin County, Pennsylvania at No. CV-2020-123 and state as follows.

**BACKGROUND**

1. On January 24, 2020, Plaintiff Robert D. Kline (“Kline” or “Plaintiff”) initiated this action *pro se* in the Mifflin County, Pennsylvania, Court of Common Pleas by filing a Praecipe for a Writ of Summons against each of the Defendants. (See Exhibit A). The writ of summons did not identify Plaintiff’s claims.

2. Plaintiff filed a complaint against Defendants on March 25, 2020. (See Exhibit B). The Complaint is based on alleged marketing telephone calls made to

Plaintiff by Defendants and asserts claims for (1) Violation of 47 U.S.C. § 227(b)(1)(A)(iii); (2) Trespass to Chattels; (3) Violation of the Telephone Consumer Protection Act “Do-Not-Call Policy” Requirement of 47 C.F.R. 64.1200, *et. seq.*; and (4) Invasion of Privacy. The Complaint included a Certificate of Service stating that it was served on Defendants by mail on March 25, 2020.

3. The Complaint is the only pleading filed in this action.

4. Alieria and Steele are the only defendants in the action.

5. This judicial district embraces the state court where the Complaint was filed. *See* 28 U.S.C. §§ 118(b); 1441(a), 1446(a).

6. Defendants attach all process, pleadings, and orders that have been filed, served, or received by Defendants in this action. (*See* Exhibits A and B).

7. Defendants will promptly serve a copy of this Notice of Removal on Plaintiff and will file a copy of this notice with the Court of Common Pleas of Mifflin County, Pennsylvania. *See* 28 U.S.C. § 1446(d).

8. Defendants do not admit that process was properly served on them or that they are subject to personal jurisdiction in Pennsylvania and reserve their rights to challenge and/or object on the basis of improper service and/or lack of personal jurisdiction.

9. In removing this action, Defendants do not waive any rights or defenses to which they are otherwise entitled, including but not limited to those set

forth in Federal Rule of Civil Procedure 12(b), and all defenses available under Pennsylvania law and its procedural rules.

### **TIMELINESS**

10. The Complaint was filed on March 25, 2020, and Defendants obtained a copy of it thereafter by requesting a copy from the Court of Common Pleas. To date, Defendants have not received a copy of the Complaint by mail from Plaintiff.

11. This Notice of Removal is timely because it was filed within 30 days of March 25, 2020. *See* 28 U.S.C. § 1446(b).

12. The deadline for removal did not start to run when the writ of summons was received, because the writ of summons did not identify a basis for federal court jurisdiction. *See Sikirica v. Nationwide Ins. Co.*, 416 F.3d 214, 223 (3d Cir. 2005).

### **FEDERAL COURT JURISDICTION**

13. This Court has federal question jurisdiction under 28 U.S.C. § 1331 because Plaintiff's claims for violation of federal statutes and regulations (Counts I and III) "aris[e] under the . . . laws . . . of the United States."

14. This Court has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367(a) because they "are so related to claims in the action within [the Court's] original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution."

Date: April 23, 2020

Respectfully Submitted,

/s/ Anthony L. Gallia  
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*Counsel for Defendants The Alieria  
Companies and Shelley Steele*

**CERTIFICATE OF SERVICE**

I certify that today I served the foregoing Notice of Removal and all attachments as follows:

By express mail, next day delivery:

Mr. Robert D. Kline  
2256 Fairview Road  
McClure, PA 17841

*Plaintiff Pro Se*

Date: April 23, 2020

/s/ Anthony L. Gallia